

Decision **ALTERNATE DRAFT DECISION OF ALJ THOMAS**
(Mailed May 23, 2002)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine the
Commission's Future Energy Efficiency Policies,
Administration and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**SECOND INTERIM OPINION SELECTING 2002-03
LOCAL ENERGY EFFICIENCY PROGRAMS****I. Introduction**

In this interim decision, we award local energy efficiency funding for 2002-03 to several programs not addressed in Decision (D.) 02-05-046. With the exception of one program, sponsored by the Efficiency Services Group, a subsidiary of Portland General Electric, which is in turn a subsidiary of the Enron Corporation, we fund all programs tentatively selected in the Administrative Law Judge's draft decision on the matter. We fund the following programs in this decision:

Energy Division Proposal Reference Number	Proposal Sponsor	Program Title	Approved Budget ¹	IOU Service Territory	Contracting IOU
142AB-02	Alliance to Save Energy	Green Schools, Green Communities <i>Program Budget Per IOU Area</i>	\$1,314,286 \$438,095 \$876,190	PGE SCE	SCE

¹ Excludes IOU administrative fee.

208-02	Energx Controls Inc	Local Small Commercial Energy Efficiency & Market Transformation Program	\$1,142,857	SCG	SCG
243ABC-02	EnSave Energy Performance Inc	California Variable Speed Drive Farm Program <i>Program Budget Per IOU Area</i>	\$484,977 \$399,621 \$71,291 \$14,065	PGE SCE SDGE	PGE
130-02	Geothermal Heat Pump Consortium	Proposal to Promote Geoexchange to SCE Customers	\$1,287,531	SCE	SCE
237ABC-02	PECI	Proposal for Delivering Energy Efficiency Services to Local Independent Grocery Sector <i>Program Budget Per IOU Area</i>	\$3,838,485 \$1,830,957 \$1,408,724 \$598,804	PGE SCE SDGE	SDGE
97A-02	SBW Consulting, Inc.	Compressed Air Management Program	\$1,569,524	PGE	PGE
197-02	SESCO, Inc.	The Gas-Only Multi-family Gas Program	\$2,380,952	SCG	SCG
Total Awarded			\$12,018,611		

We redirect the \$3,320,368 tentatively steered toward the Efficiency Services Group program to augment funding of certain programs we selected in D.02-05-046, as set forth below:

Energy Division Proposal Reference Number	Proposal Sponsor	Program Title	Additional Funding	IOU Service Territory	Contracting IOU
230ABCD-02	California State University Fresno	Agriculture Pumping Efficiency Program	\$1,487,351	PGE	PGE
278BC-02	Global Energy Services	Chinese Language Efficiency Outreach (CLEO)	\$345,666	PGE	SCE
177-02	State & Consumer Services Agency	Proposal for a Local K-12 Schools Energy-Efficiency Program	\$1,487,351	PGE	PGE
Total Additional Funding Awarded			\$3,320,368		

II. Background

In D.02-05-046, we awarded \$102,030,037 in local program funding for 2002-03.² The remaining available funding was \$15,757,911. While the draft decision had approved the full \$125 million in available local energy efficiency funding, we stated in D.02-05-046 that

As to certain programs recommended in the draft decision, we will hold off on making a decision until we have time further to consider them. We have backed those programs out of the funding tables so that all other programs may go forward without delay. We will address the remaining \$15,757,911 million in programs after this decision issues. (D.02-05-046, *mimeo.*, at 38.)

The programs awarded funding here offer comparably qualified services to the Efficiency Services Group proposal.

III. Discussion**A. Funded Programs**

The programs we fund provide needed energy efficiency services not covered by the remaining portfolio of selected programs, and meet the program criteria in D.01-11-066. In some cases, we reinstate funding for programs whose budgets we cut in the initial selection process. This additional funding will allow the affected programs to serve more customers and increase the number of measures installed. We award \$15,338,979 for these programs, and set aside the rest of the available local energy efficiency funding (*i.e.*, \$418,932) to cover the

² We also set aside \$4,462,052 to cover the maximum amount of administrative costs the large Investor Owned Utilities could receive for administering the third-party program contracts, in addition to the \$2,750,000 in “bridge funding” given to the IOUs in D.02-03-056. (*See* D.02-05-046, *mimeo.*, at 8.)

maximum IOU administrative costs that may result from the inclusion of the foregoing programs in the 2002-03 program mix.³

Attachment 1 to this decision presents additional information on the new programs selected for each IOU service area. We provide the Energy Division's description of each selected program (including those awarded additional funding), required program modifications, budget and other information in Attachment 3 hereto.⁴ Each program approved in this decision shall be bound by the terms and conditions in D.02-05-046, with the exception of certain due dates set forth therein, revisions of which are set forth in Attachment 2 to this decision.

We summarize in Attachment 4 the selected local program mix by delivery structure, geography and targeted rate-class for all the local energy efficiency programs we fund in D.02-05-046 and in this decision.

B. Enron Subsidiary

We decline to fund the proposal of the Efficiency Services Group, recommended in the draft decision, on the ground that it is offered by a subsidiary of Portland General Electric, which is in turn a subsidiary of the Enron Corporation. We take official notice of the fact that Enron is in bankruptcy and currently is under investigation for activities that contributed to California's recent energy crisis. We believe it is inappropriate to fund this corporate entity under these circumstances. Enron's precarious financial situation raises concerns

³ See D.02-05-046, *mimeo.*, at 35-36.

⁴ The respective program budgets shown in Attachment 3 do not include the IOU administrative fees.

as to whether the program would fail midstream, hurting California electricity consumers and the Commission's overall energy efficiency efforts. There is too much uncertainty surrounding Enron for us to be able to select its program given the quality of the other programs also seeking funding.

The criteria in D.01-11-066 make room for such disallowances. Our first criterion states that "[t]he most important goal of any Commission energy efficiency program is to create permanent and verifiable energy savings over the life-cycle of the relevant energy efficiency measures." A company faced with the financial and legal risks Enron poses may be unable to create such permanent change. It is not at all clear what the obligations of Portland General Electric will be to help satisfy Enron's debts. Given the financial precariousness of Enron and the likelihood Portland General Electric will be called to account at least in part for Enron's debt, we simply cannot approve of sending additional California ratepayer money to these entities.

Finally, we are concerned that the proposer never prominently disclosed its affiliation with Enron. It only refers to Enron once in its proposal, on page 33, and there simply states that "[t]he local Northwest Natural Gas Company is purchasing Portland General from Enron." This statement distances the proposer from Enron, rather than fully addressing the affiliation.

C. Energx Program

In D.02-05-046, we held back for further consideration funding the draft decision tentatively awarded to Energx Controls, Inc. (Energx) on the ground of concerns raised in the draft decision about an Energx state tax lien. Since submitting its proposal, however, Energx submitted evidence sufficient to establish that it has since cleared the lien, which was based on a minor accounting dispute. Therefore, we fund the Energx proposal.

IV. Conclusion

We award 2002-03 local energy efficiency funding to the well-qualified programs listed herein. We decline to fund the Enron/Portland General Electric/Efficiency program for the reasons set forth above.

Findings of Fact

1. The programs funded herein offer comparably qualified services to those recommended in the draft decision.
2. The funded programs offer needed energy efficiency services not covered by the remaining portfolio of programs selected in D.02-05-046.
3. Each funded program meets the program criteria set forth in D.01-11-066.
4. We take official notice of the fact that Enron Corporation is in bankruptcy and currently is under investigation for activities that contributed to California's recent energy crisis.
5. Efficiency Services Group is a subsidiary of Portland General Electric, which is an Enron subsidiary.
6. Efficiency Services Group's proposal only mentions Enron on one page of its proposal (page 33), and suggests there that it will soon not be part of Enron.
7. Energen no longer has an outstanding California state tax lien.

Conclusions of Law

1. The financial precariousness of Enron renders the Efficiency Services Group program ineligible for program funding. The program may be unable to meet the first criterion set forth in D.01-11-066: "[t]he most important goal of any Commission energy efficiency program is to create permanent and verifiable energy savings over the life-cycle of the relevant energy efficiency measures."

There is too much uncertainty surrounding Enron for us to be able to select its program given the quality of the other programs also seeking funding.

SECOND INTERIM ORDER

IT IS ORDERED that:

1. We award the remaining 2002-03 local energy efficiency funding to the following programs:

Program Administrator	Program Title	Approved Budget
<i>New Programs:</i>		
Alliance to Save Energy	Green Schools, Green Communities	\$1,314,286
Energx Controls Inc	Local Small Commercial Energy Efficiency & Market Transformation Program	\$1,142,857
EnSave Energy Performance Inc	California Variable Speed Drive Farm Program	\$484,977
Geothermal Heat Pump Consortium	Proposal to Promote Geoexchange to SCE Customers	\$1,287,531
PECI	Proposal for Delivering Energy Efficiency Services to Local Independent Grocery Sector	\$3,838,485
SBW Consulting, Inc.	Compressed Air Management Program	\$1,569,524
SESCO, Inc.	The Gas-Only Multi-family Gas Program	\$2,380,952
<i>Additional Funding:</i>		
California State University Fresno	Agriculture Pumping Efficiency Program	\$1,487,351
Global Energy Services	Chinese Language Efficiency Outreach (CLEO)	\$345,666
State & Consumer Services Agency	Proposal for a Local K-12 Schools Energy-Efficiency Program	\$1,487,351
TOTAL		\$15,338,979

2. We set aside an additional \$418,932 to cover IOU administrative costs that may result from the inclusion of the foregoing programs.

3. Each selected program shall be bound by the terms and conditions in D.02-05-046, with the exception of certain due dates set forth therein, revisions of which are set forth in Attachment 2 to this decision.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT 4**LOCAL PROGRAM PORTFOLIO MIX***

Local Program Mix by Delivery Structure, Geography and Rate-Class					
Delivery Structure	Incentive/Rebate¹		Information Programs¹		Both³
	\$54,626,071	(46.54%)	\$25,312,556	(21.57%)	\$37,430,390 (31.89%)
Geography²	Rural²		Urban²		Both³
	\$23,245,773	(19.81%)	\$26,738,937	(22.78%)	\$67,384,306 (57.41%)
Market Segments	Residential¹		Nonresidential¹		Crosscutting¹
	\$35,205,792	(30.00%)	\$56,332,411	(48.00%)	\$25,830,813 (22.01%)

1. As defined in the Energy Efficiency Policy Manual attached to D.01-11-066.

2. We define rural here as being those areas largely outside of the metropolitan areas of the San Francisco Bay Area, Sacramento, San Diego and the Los Angeles basin.

3. Programs that combine both features.

(END OF ATTACHMENT 4)

* Includes all local programs approved in D.02-05-046 and in this decision.

